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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/697,850
Filing Date: October 30, 2003
Appellant(s): BAKER ET AL.

Robert V. Racunas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 22 November 2010 appealing from the Office action mailed 20 May 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 1-35 are currently pending and rejected in the application.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

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The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

- Webcharity.com Webpage from 06 December 1998 to 02 December 2010
- Official Notice (now admitted prior art after failure to traverse the Official Notice)
- The Job Listing for the Poway Unified District Inventory Supervisor from August 1996
- 2002/0152130 Salls 10-2002
- 5,752,025 Shakib et al 05-1998
- 2001/0047290 Petras 11-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
 1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1-7, 9-11, and 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the WebCharity.com Webpage, hereinafter Webcharity in view of **Official Notice (now admitted prior art)** in view of the Poway Unified School District Inventory Supervisor Job Listing, hereinafter Poway.

Claim 1:

Webcharity, as shown, discloses the following limitations:

- *An online marketplace system for providing logistics for a sale of one or more goods, the online marketplace system being adapted to receive information a seller and a buyer for serving as an intermediary between the seller and the buyer, to present a seller interface for receiving information from the seller comprising a seller identity*

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and a description of the one or more goods, to present a listing of the one or more goods on behalf of the seller based on the information received from the seller, to present the buyer with a buyer interface comprising the listing that includes the description of the one or more goods while maintaining the seller identity confidential from the buyer, and to provide financial logistics and shipping logistics for completing the sale of the one or more goods, wherein: [See at least the page entitled How WebCharity Item Donation Work]

- *the seller interface presents available options for directing the remaining proceeds of the sale and receives the option selected by the seller from the available options prior to presenting the listing to the buyer, the available options allowing the seller to choose to receive all of the remaining proceeds of the sale or to select to donate at least a portion of remaining proceeds of the sale to a third party designated by the seller; and [See at least the page entitled How WebCharity Item Donation Work]*
- *the financial logistics include collecting proceeds for the sale of the one or more goods from a financial service provider designated by the buyer, deducting a fee for use of the system from the proceeds collected for the sale, and transferring remaining proceeds of the sale according to an option selected by the seller without requiring interaction between the buyer and seller. [See at least the page entitled How WebCharity Item Donation Work]*
- *choose to donate at least a portion of the remaining proceeds of the sale to the third party designated by the seller if the one or more goods are sold before the last sale time passes [See at least the page entitled How WebCharity Item Donation Work]*

Webcharity also discloses the seller choosing the percentage of the proceeds to be given to the particular charity on at least the page entitled How Webcharity Item Donations work in step 2. While Webcharity is directed mainly to donating a portion of the proceeds of a sale to charity, it does not explicitly say that that the percentage of the proceeds that the seller enters can not be zero. Therefore, Webcharity allows the option of entering zero percent to the user.

However, the Examiner takes **Official Notice (now admitted prior art)** that it is old and well known in the auction arts for the seller to maintain all of the proceeds in an auction. It would have been obvious to one skilled in the art at the time of the invention to combine the auction and donation of Webcharity with the zero donation because allows for a reminder to the seller that they have the option of backing out of the donation and keeping all of the proceeds for themselves. Webcharity also discloses completing actions automatically after the auction closes in at least the page entitled How Item donation works. Webcharity does not disclose the following limitation. Poway, however, does disclose the following:

- *donate the one or more goods to a third party designated by the seller if the last sale time passes and the one or more goods have not been sold* [See at least page 1 paragraph number 5]

It would have been obvious to one skilled in the art at the time of the invention to combined he charity auction of Webcharity with the donation of unsold goods to charity because it quickly and effortlessly allows for the seller to dispose of the goods while still doing charitable work.

Claim 2:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 1. Webcharity also discloses the following:

- *wherein the third party comprises a charitable or nonprofit entity.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 3:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 1. With regard to the limitation of *wherein the third party comprises a political action committee*. Webcharity discloses the third party being a charity (See at least the page entitled How WebCharity Item Donation Work]).

Webcharity does not expressly show:

- *wherein the third party comprises a political action*

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed the same regardless of the type of third party. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made for the third party to be any type of entity because the type of entity does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Claim 4:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 1. Webcharity also discloses the following:

- *wherein the third party comprises a fundraising entity.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 5:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 2. Webcharity also discloses the following:

- *wherein said financial logistics comprises providing said entity with information regarding the seller sufficient to allow the entity to generate an acknowledgement for tax reporting purposes.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 6:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 1. Webcharity also discloses the following:

- *wherein the system is adapted to receive the information over a computer network.*

[See at least the page entitled How WebCharity Item Donation Work]

Claim 7:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 6. Webcharity also discloses the following:

- *wherein the financial logistics comprises conducting an auction over the computer network.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 9:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 1. Webcharity also discloses the following:

- *wherein the system is adapted to provide the shipping logistics by use of at least one geography-based and time-based strategy.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 10:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 9. Webcharity also discloses the following:

- *wherein the goods are time-sensitive.* [See at least the page entitled Buying: All Categories: Tickets]

Claim 11:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 10 Webcharity also discloses the following:

- *wherein the goods are event tickets.* [See at least the page entitled Buying: All Categories: Tickets]

Claim 13:

Webcharity, as shown, discloses the following limitations:

- *receiving information at an intermediary computer system from a seller and a buyer for providing an online marketplace for conducting the sale of the one or more goods without requiring interaction between the seller and the buyer; wherein the intermediary system is adapted to collect proceeds of the sale of the one or more goods from a financial service provider designated by the buyer, deduct a fee for the use of the online marketplace from the proceeds of the sale and transfer the remaining proceeds of the sale according to an option selected by the user* [See at least the page entitled How WebCharity Item Donation Work]
- *presenting a seller interface to a computer of the seller, the seller interface for providing a the seller with available options for directing the remaining proceeds of the sale and for receiving the option selected by the seller from the available options prior to listing the one or more goods for sale the buyer, the available options allowing the seller to choose to receive all of the remaining proceeds of the sale or to select to donate at least a portion of the remaining proceeds of the sale to a third party designated by the seller;* [See at least the page entitled How WebCharity Item Donation Work]

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- *receiving information from the seller via the seller interface, the information including a description of the one or more goods, a method of sale for the one or more goods, an option selected by the seller to donate at least a portion of the remaining proceeds of the sale and an identity of a third party designated by the seller to receive at least a portion of the remaining proceeds of the sale; [See at least the page entitled How WebCharity Item Donation Work]*
- *presenting a listing of the one or more goods on behalf of the seller based on the information received from the seller while maintaining seller identity confidential from the buyer; [See at least the page entitled How WebCharity Item Donation Work]*
- *presenting a buyer interface to a computer of the buyer, the buyer interface comprising the listing including the description of the one or more goods; [See at least the page entitled How WebCharity Item Donation Work]*
- *conducting the sale of the one or more goods over a computer network according to the method of sale; [See at least the page entitled How WebCharity Item Donation Work]*
- *providing financial logistics, transferring at least a portion of the remaining proceeds of the sale for donation on behalf of the seller to the third party designated by the seller; and [See at least the page entitled How WebCharity Item Donation Work]*
- *providing shipping logistics, including arranging for transfer of the one or more goods to the buyer. [See at least the page entitled How WebCharity Item Donation Work]*

Webcharity also discloses the seller choosing the percentage of the proceeds to be given to the particular charity on at least the page entitled How Webcharity Item Donations work in step 2. While Webcharity is directed mainly to donating a portion of the proceeds of a sale to charity, it does not explicitly say that that the percentage of the proceeds that the seller enters

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can not be zero. Therefore, Webcharity allows the option of entering zero percent to the user. However, the Examiner takes **Official Notice (now admitted prior art)** that it is old and well known in the auction arts for the seller to maintain all of the proceeds in an auction. It would have been obvious to one skilled in the art at the time of the invention to combine the auction and donation of Webcharity with the zero donation because allows for a reminder to the seller that they have the option of backing out of the donation and keeping all of the proceeds for themselves. Webcharity also discloses completing actions automatically after the auction closes in at least the page entitled How Item donation works. Webcharity does not disclose the following limitation. Poway, however, does disclose the following:

- *donate the one or more goods to a third party designated by the seller if the last sale time passes and the one or more goods have not been sold* [See at least page 1 paragraph number 5]

It would have been obvious to one skilled in the art at the time of the invention to combined he charity auction of Webcharity with the donation of unsold goods to charity because it quickly and effortlessly allows for the seller to dispose of the goods while still doing charitable work.

Claim 14:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 13. Webcharity also discloses the following:

- *wherein the goods are event tickets.* [See at least the page entitled Buying: All Categories: Tickets]

Claim 15:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 14. Webcharity also discloses the following:

- *wherein the third party comprises a charitable or nonprofit entity.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 16:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 13. With regard to the limitation of *wherein the third party comprises a political action committee*. Webcharity discloses the third party being a charity (See at least the page entitled How WebCharity Item Donation Work]).

Webcharity does not expressly show:

- *wherein the third party comprises a political action*

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed the same regardless of the type of third party. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made for the third party to be any type of entity because the type of entity does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Claim 17:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 14. Webcharity also discloses the following:

- *wherein the third party is a fundraising entity.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 18:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 15. Webcharity also discloses the following:

- *providing the charitable or nonprofit entity with information regarding the seller sufficient to allow the entity to generate an acknowledgement for tax reporting purposes.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 19:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 15. Webcharity also discloses the following:

- *causing an acknowledgement for tax reporting purposes to be provided to the seller.*
[See at least the page entitled How WebCharity Item Donation Work]

Claim 20:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 14. Webcharity also discloses the following:

- *wherein said system is adapted to provide said shipping logistics by use of at least one geography-based and time-based strategy.* [See at least the page entitled How WebCharity Item Donation Work]

4. Claims 8, 12, 21-28, and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webcharity in view of Official Notice in view of Poway in view of Salls (US 2002/0152130).

Claim 8:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 6. Neither Webcharity nor Poway does not disclose the following limitation. Salls, however, does disclose the following limitation:

- *wherein the financial logistics comprises conducting a raffle over the computer network.* [See at least the abstract]

It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system of Webcharity with the raffle of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).”

Claim 12:

The combination of Webcharity, Official Notice, and Poway, as shown, discloses all of the limitations of claim 6. Webcharity also discloses the following limitations:

- *wherein the financial logistics include authorizing an amount of sale on a credit card of the buyer,* [See at least the page entitled How WebCharity Item Donation Work]
- *charging the credit card for the amount of sale,* [See at least the page entitled How WebCharity Item Donation Work]
- *receiving the amount of sale, and* [See at least the page entitled How WebCharity Item Donation Work]

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- *transferring at least a portion of the amount of sale to the third party.* [See at least the page entitled How WebCharity Item Donation Work]

Neither Webcharity nor Poway does not specifically disclose that the payment method is a credit card. Salls, however, does disclose using a credit card to pay for purchased goods, in at least the abstract. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system of Webcharity with the raffle of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).”

Claim 21:

Webcharity, as shown, discloses the following limitations:

- *receiving information at an intermediary computer system from a first party and from a plurality of buyers for providing an online marketplace between the first party and the plurality of buyers;* [See at least the page entitled How WebCharity Item Donation Work]
- *presenting a user interface to a computer of the first party for receiving information from a the first party comprising a description of one or more goods offered for raffle, the user interface providing the first party with available options for directing proceeds of the raffle including options for receiving proceeds of the raffle and for donating proceeds from the raffle to a third party;* [See at least the page entitled How WebCharity Item Donation Work]
- *receiving an option to donate proceeds from the raffle selected by the first party via the user interface prior to conducting the raffle;* [See at least the page entitled How WebCharity Item Donation Work]

- *donating the proceeds from the raffle tickets to the third party on behalf of the first party in accordance with the option selected by the first party.* [See at least the page entitled How WebCharity Item Donation Work]

Webcharity does not disclose a raffle however. Salls in at least the abstract and paragraphs 0006-0008 does disclose using a raffle to raise money for charity. Salls also discloses the following limitations:

- *receiving requests to purchase raffle tickets from a the plurality of buyers over a computer network;* [See at least Figures 10-13 and related text]
- *receiving identification information from the plurality of buyers;* [See at least Figures 10-13 and related text]
- *creating a record of the plurality of buyers weighted according to the number of raffle tickets purchased by each buyer;* [See at least Figures 10-13 and related text]
- *selecting a winner at random from the record;* [See at least Figures 10-13 and related text]
- *notifying the winner; and* [See at least Figures 10-13 and related text]

It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system of Webcharity with the raffle of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).” Webcharity also discloses the seller choosing the percentage of the proceeds to be given to the particular charity on at least the page entitled How Webcharity Item Donations work in step 2. While Webcharity is directed mainly to donating a portion of the proceeds of a sale to charity, it does not explicitly say that that the percentage of the proceeds that the seller enters can not be zero. Therefore, Webcharity allows the option of entering zero percent to the user. However, the Examiner

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takes **Official Notice (now admitted prior art)** that it is old and well known in the auction arts for the seller to maintain all of the proceeds in an auction. It would have been obvious to one skilled in the art at the time of the invention to combine the auction and donation of Webcharity with the zero donation because allows for a reminder to the seller that they have the option of backing out of the donation and keeping all of the proceeds for themselves.

Claim 22:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 21. Salls also discloses the following limitations:

- *wherein the winner wins goods provided by the first party.* [See at least Figures 10-13 and related text]

It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the goods provided of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).”

Claim 23:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 22. Webcharity also discloses the following limitations:

- *wherein the goods comprise event tickets.* [See at least the page entitled Buying: All Categories: Tickets]

Claim 24:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 22. Webcharity also discloses the following limitations:

- *receiving information from the first party, including the identity of the third party that will receive the proceeds of the raffle; and* [See at least the page entitled How WebCharity Item Donation Work]
- *presenting information to the plurality of buyers that proceeds from raffle tickets purchased will be donated to the third party.* [See at least the page entitled How WebCharity Item Donation Work]

Webcharity does not disclose a raffle however. Salls in at least the abstract and paragraphs 0006-0008 does disclose using a raffle to raise money for charity. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the raffle of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).”

Claim 25:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 24. Webcharity also discloses the following limitations:

- *wherein the third party is a charitable or nonprofit organization.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 26:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 24. With regard to the limitation of *wherein the third party comprises a political action committee*. Webcharity discloses the third party being a charity (See at least the page entitled How WebCharity Item Donation Work).

Webcharity does not expressly show:

- *wherein the third party comprises a political action*

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The information collection and storage steps would be performed the same regardless of the data. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made for the third party to be any type of entity because the type of entity does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

Claim 27:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 24. Webcharity also discloses the following limitations:

- *wherein the third party is a fundraising entity*. [See at least the page entitled How WebCharity Item Donation Work]

Claim 28:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 25. Webcharity also discloses the following limitations:

- *causing an acknowledgement for tax reporting purposes to be provided to the first party.* [See at least the page entitled How WebCharity Item Donation Work]

Claim 32:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 21. Salls also discloses the following:

- *wherein the record is created by sequentially assigning numbers to the plurality of buyers based on the number of tickets purchased by each buyer, wherein a winner is selected by generating a random number between one and the total number of tickets sold, and wherein the winner is the buyer corresponding to the random number.* [See at least figures 1 and 10 and related text.]

It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the winner generation of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).”

Claim 33:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 21. Webcharity also discloses the following limitations:

- *wherein the winner is notified over the computer network.* [See at least the page entitled How WebCharity Item Donation Work]

5. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webcharity in view of Official Notice in Salls in view of Shakib et al (US 5,752,025), hereinafter Shakib.

Claim 29:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 21. Salls also discloses the creation of a ticket purchaser database in at least Figures 1-9 and related text. The combination of Webcharity and Salls does not disclose *the record is created by entering the plurality of buyers into a spreadsheet*. Shakib, however, in at least Figures 1-2, 5, and related text does disclose categorizing received information into spreadsheets. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the spreadsheet of Shakib because it easily, quickly, and conveniently allows the individual conducting the raffle to keep the record organized, accurate, and complete.

Claim 30:

The combination of Webcharity, Official Notice, Salls, and Shakib, as shown, discloses all of the limitations of claim 29. Salls also discloses the creation of a ticket purchaser database in at least Figures 1-9 and related text. The combination of Webcharity and Salls does not disclose *wherein each buyer occupies a number of rows in the spreadsheet corresponding to the number of tickets purchased by that buyer*. Shakib, however, in at least Figures 1-2, 5,

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and related text does disclose categorizing received information into spreadsheets that are organized by like information into rows. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the spreadsheet of Shakib because it easily, quickly, and conveniently allows the individual conducting the raffle to keep the record organized, accurate, and complete.

Claim 31:

The combination of Webcharity, Official Notice, Salls, and Shakib, as shown, discloses all of the limitations of claim 30. Salls also discloses the following:

- *wherein the step of selecting a winner comprises generating a random number between one and the total number of tickets sold, [See at least figures 1 and 10 and related text.]*
- *and wherein the winner is the buyer occupying the row in the spreadsheet corresponding to the random number. [See at least figures 1 and 10 and related text.]*

It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the winner generation of Salls because it provides “a popular and exciting method for a person or a group of people to purchase tickets at a low price, for a chance to win an item of greater value (Salls Paragraph 0006).” Shakib also discloses matching items in a spreadsheet by corresponding values. It would have been obvious to one skilled in the art at the time of the invention that the winning number that is generated could be compared to the corresponding values in the spreadsheet. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the spreadsheet of Shakib because it easily, quickly, and conveniently allows the individual conducting the raffle to keep the record organized, accurate, and complete.

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6. Claims 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webcharity in view of Official Notice in view of Salls in view of Petras et al (US 2001/0047290), hereinafter Petras.

Claim 34:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 33. Salls, as shown above, also discloses notifying a winner of a raffle in at least figure 13 and related text. The combination of Webcharity and Salls does not disclose *the winner is notified by automatically generating an email to the winner*. Petras, however, in at least paragraph 220 does disclose notification by email. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the notification by email of Petras because it allows the individual who is conducting the raffle to easily and quickly inform the winner of the prize.

Claim 35:

The combination of Webcharity, Official Notice, and Salls, as shown, discloses all of the limitations of claim 33. With regard to the limitation of *the winner is notified by automatically generating an instant message to the winner*. Salls, as shown above, also discloses notifying a winner of a raffle in at least figure 13 and related text. The combination of Webcharity and Salls does not disclose notifying the winner electronically. Petras, however, in at least paragraph 220 does disclose notification by email. It would have been obvious to one skilled in the art at the time of the invention to combine the charity donation system and raffle of Webcharity and Salls with the notification by email of Petras because it allows the individual who is conducting the raffle to easily and quickly inform the winner of the prize.

Salls and Petras do not expressly show:

- *the winner is notified by automatically generating an instant message to the winner.*

However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The steps would be performed the same regardless of the type of notification. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made for the type of notification to be any type of notification because the type of notification does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

(10) Response to Argument

With regard to claims 1 and 13, appellant argues that none of the cited references teaches or discloses a seller interface that presents available options allowing a seller to choose to receive all of the remaining proceeds of a sale if one or more goods are sold before a last sale time passes and the automatically donate the one or more goods to a third party designated by the seller if the last sale time passes and the one or more goods have not been sold. The examiner respectfully disagrees. Webcharity, in at least the page entitled How Webcharity Item Donation Works, discloses a seller putting an item up for auction and the seller entering what portion of the proceeds will be donated to charity. Webcharity does not explicitly disclosed that the amount that the seller enters is zero, however the examiner took Official Notice that it is old and well known in the auction arts that the seller of an item in an online auction keeps all proceeds from the sale. When combined this is indeed the first limitation. Regarding the second limitation Poway in at least page 1 paragraph 5 discloses that if a good or item is not sold in an auction held then the good or item will be donated to charity. This when combined with Webcharity's website where the

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seller can choose which charity receives the "gift" or proceeds is indeed the second limitation where the goods are donated to charity upon them being unsold. While Webcharity encourages and is focused on the users donating a portion of the sale to charity, it does not preclude the user's keeping all of the proceeds for themselves.

With regard to the arguments of claims 8 and 12, the examiner points to the response above.

With regard to claims 21-28, 32, and 33, appellant argues that none of the cited references teaches or discloses holding a raffle where the proceeds go to a charity. The examiner respectfully disagrees. Webcharity in at least the page entitled How Webcharity item donation works, discloses a user putting an item up for sale in order to donate a portion of the proceeds to charity. Webcharity does not disclose that the way the item is put up for sale is a raffle. Salls, however, in at least paragraphs 0006-0008, Figures 10-13, and the related text, discloses holding a raffle where proceeds from the item go to the "owner" of the item, where the "owner" could be a charity organization (see paragraph 0006). When combined, these references do indeed disclose an individual donating an item to be put up for sale, via a raffle, in order for the proceeds to go to a charity of the individuals choosing. Appellant also argues that none of the cited references teaches or discloses creating a record of the buyers that is weighted according to the number of tickets purchased. The examiner respectfully disagrees. Salls in at least Figures 3, 9, and 10 discloses creating a ticket purchasers database where one item that the database contains and can be organized by is the number of tickets purchased. This is indeed the same as creating a record of the buyers weighted by the amount of tickets purchased.

With regard to the arguments of claims 29-31, 34, and 35, the examiner points to the response above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Stephanie Ziegler/
Examiner, Art Unit 3684

Conferees:

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